

# Title 210 WAC

## STATE TREASURER'S OFFICE (FINANCE COMMITTEE)

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### Chapter 210-01 WAC

#### LOCAL GOVERNMENT INVESTMENT POOL

##### WAC

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**WAC 210-01-010 Promulgation.** The state finance committee, after due and proper notice, and pursuant to the provisions of chapter 294, Laws of 1986, hereby adopts and promulgates the following rules and regulations, effective July 1, 1986.

[Statutory Authority: 1986 c 294, 86-14-002 (Resolution No. 639), § 210-01-010, filed 6/19/86.]

**WAC 210-01-020 Definitions.** Unless the context requires otherwise:

(1) "Local government investment pool" or "pool" means the aggregate of all funds from political subdivisions that are placed in the custody of the state treasurer for investment and reinvestment.

(2) "Pool participant" means any county, city, town, municipal corporation, political subdivision, community and technical college district, the state board for community and technical colleges, or other entities in this state as may be designated by statute.

(3) "Local government official" means any officer or employee of a political subdivision who has been designated by statute or by local charter, ordinance, or resolution as the officer having the authority to invest the funds of the political subdivision.

(4) "Financial officer" means the board-appointed treasurer of a community or technical college district or the state board for community and technical colleges.

(5) "Funds" means public funds under the control of or in the custody of any local government official or local funds, as defined by the office of financial management publication

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"Policies, Regulations and Procedures," under the control of or in the custody of a financial officer by virtue of the official's or financial officer's authority that are not immediately required to meet current demands.

(6) "Financial institution" means a public depository as defined in RCW 39.58.010.

[Statutory Authority: Chapter 43.250 RCW and RCW 43.250.090, 98-24-060, § 210-01-020, filed 11/30/98, effective 12/31/98. Statutory Authority: RCW 43.250.090, 43.250.010, [43.250].020 and [43.250].040, 96-18-029, § 210-01-020, filed 8/28/96, effective 9/28/96. Statutory Authority: 1986 c 294, 86-14-002 (Resolution No. 639), § 210-01-020, filed 6/19/86.]

**WAC 210-01-030 Local government ordinance or resolution.** All government entities participating in the local government investment pool will file with the state treasurer a certified copy of an ordinance or resolution containing the following:

(1) Name and address of entity

(2) A statement that the governmental entity agrees to deposit or withdraw funds in the local government investment pool in accordance with the provisions of the Washington Administrative Code for the purpose of investment as stated therein.

(3) The names and titles of the officials authorized by this ordinance or resolution to order the deposit or withdrawal of funds in the local government investment pool. No more than two signatures are necessary for this purpose.

[Statutory Authority: RCW 43.250.090, 43.250.010, [43.250].020 and [43.250].040, 96-18-029, § 210-01-030, filed 8/28/96, effective 9/28/96. Statutory Authority: 1986 c 294, 86-14-002 (Resolution No. 639), § 210-01-030, filed 6/19/86.]

**WAC 210-01-040 Proper adoption and filing of local government ordinance or resolution.** It shall be the responsibility of local government officials to properly execute and file the resolution or ordinance, described in WAC 210-01-030 with the state treasurer. The state treasurer shall not allow participation in the local government investment pool unless such resolution or ordinance has been filed with the office of state treasurer.

[Statutory Authority: 1986 c 294, 86-14-002 (Resolution No. 639), § 210-01-040, filed 6/19/86.]

**WAC 210-01-050 State treasurer's liability.** The state treasurer shall not be liable for any damages resulting from misfeasance, malfeasance, nonfeasance, or defalcation on the part of local government officials.

[Statutory Authority: 1986 c 294, 86-14-002 (Resolution No. 639), § 210-01-050, filed 6/19/86.]

**WAC 210-01-060 Deposit and withdrawal of funds.** The minimum transaction size will be at least five thousand dollars.

[Statutory Authority: 1986 c 294, 86-14-002 (Resolution No. 639), § 210-01-060, filed 6/19/86.]

**WAC 210-01-070 Transaction limitation.** Each pool participant shall be limited to one transaction per business day. This may be either a deposit to or a withdrawal from the pool.

[Statutory Authority: 1986 c 294, 86-14-002 (Resolution No. 639), § 210-01-070, filed 6/19/86.]

**WAC 210-01-080 Deposit procedures.** A pool participant, to receive same day credit, must inform the office of the state treasurer of any deposit over one million dollars no later than 9 a.m. on the same day the deposit is made. Deposits for one million dollars or less can be requested at any time prior to 10 a.m. on the day of deposit. All deposits will be made by electronic funds transfer to an account designated by the state treasurer. It is the responsibility of each pool participant to pay any bank charges associated with such electronic transfers to the office of the state treasurer. Failure to wire funds by a pool participant (after notification to the state treasurer of an intended transfer) will result in a bank overdraft in the state treasurer's bank account. Bank penalties for overdrafts will be assessed to those pool participants responsible for the overdraft.

[Statutory Authority: Chapter 43.250 RCW and RCW 43.250.090, 98-24-060, § 210-01-080, filed 11/30/98, effective 12/31/98. Statutory Authority: 1986 c 294, 86-14-002 (Resolution No. 639), § 210-01-080, filed 6/19/86.]

**WAC 210-01-090 Withdrawal procedures.** A pool participant, in order to withdraw funds from the pool, must notify the office of state treasurer of any withdrawal over one million dollars no later than 9 a.m. on the same day the withdrawal is made. Withdrawals for one million dollars or less can be requested at any time prior to 10 a.m. on the day of withdrawal. Each local government entity participating in the pool shall file with the state treasurer a letter designating the financial institution at which funds withdrawn from the pool shall be deposited. This letter shall contain the name of the financial institution, location of the financial institution, account number to which funds will be deposited and account name. This letter shall be signed by local officials authorized to receive and disburse funds, as described in WAC 210-01-030. Disbursements from the pool will be by electronic funds transfer. Failure of the state treasurer to wire funds to a pool participant (after proper notification to the state treasurer to disburse funds to a pool participant) may result in a bank overdraft in the pool participant's bank account. The state treasurer will reimburse pool participants for such bank overdraft penalties charged to the pool participant's bank account.

[Statutory Authority: Chapter 43.250 RCW and RCW 43.250.090, 98-24-060, § 210-01-090, filed 11/30/98, effective 12/31/98. Statutory Authority: 1986 c 294, 86-14-002 (Resolution No. 639), § 210-01-090, filed 6/19/86.]

**WAC 210-01-100 Interest earnings credit.** Interest earnings on funds deposited in the local government investment pool will be credited to each pool participant's account in the pool on the last day of the month in which the interest

income was earned. These funds may be left on deposit and earn interest at the discretion of each pool participant.

[Statutory Authority: 1986 c 294, 86-14-002 (Resolution No. 639), § 210-01-100, filed 6/19/86.]

**WAC 210-01-110 Reporting requirements.** The state treasurer will provide to each pool participant a statement showing that participant's beginning balance, deposits, withdrawals, administrative charges, earnings rate, earnings, and ending balance for the calendar month.

[Statutory Authority: 1986 c 294, 86-14-002 (Resolution No. 639), § 210-01-110, filed 6/19/86.]

**WAC 210-01-120 Administrative deductions.** As authorized in RCW 43.250.060, the state treasurer will require reimbursement for the administration and recovery of costs associated with the operation of the local government investment pool. The deduction for the amount to reimburse the office of the state treasurer will be based on the average daily balance of the funds deposited in the pool. Each participant will reimburse based upon its share of the total pool's assets. The deduction will be expressed as a percentage of the average daily funds on deposit in the pool for a specified period. This reimbursement will be deducted from each participant's earnings prior to the credit of those earnings. The administrative deduction will be adjusted to reflect actual experience.

[Statutory Authority: Chapter 43.250 RCW and RCW 43.250.090, 00-07-003, § 210-01-120, filed 3/2/00, effective 4/2/00. Statutory Authority: RCW 43.250.090, 43.250.010, [43.250].020 and [43.250].040, 96-18-029, § 210-01-120, filed 8/28/96, effective 9/28/96. Statutory Authority: 1986 c 294, 86-14-002 (Resolution No. 639), § 210-01-120, filed 6/19/86.]

**WAC 210-01-130 Portfolio management.** The state treasurer shall have sole responsibility in the setting of investment strategy for the local government investment pool. Any investments made hereunder shall be made with the exercise of that degree of judgement and care, under circumstances then prevailing, which men of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation but for investment, considering the probable income to be derived.

[Statutory Authority: 1986 c 294, 86-14-002 (Resolution No. 639), § 210-01-130, filed 6/19/86.]

## Chapter 210-02 WAC

### SCHOOL BOND GUARANTEE PROGRAM

#### WAC

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## GENERAL

**WAC 210-02-010 Definitions.** For purposes of this rule, the following definitions shall apply:

**"Act"** means the Washington State School District Credit Enhancement Program Act, pursuant to chapter 39.98 RCW.

**"Authorized district official"** means the chairperson of the board, the superintendent, or business manager for the school district, or other designee of the board, as designated by resolution provided for in WAC 210-02-020.

**"Bond"** means any voted general obligation bond issued by a school district holding a certificate issued pursuant to the act, and any general obligation bond issued by a school district holding a certificate issued pursuant to the act to refund outstanding voted general obligation bonds of that school district.

**"Certificate of eligibility"** means a certificate issued by the state treasurer pursuant to RCW 39.98.040.

**"Credit enhancement program"** means the school district bond guarantee program established by the act.

**"County assessor"** means the county assessor(s) in the county or counties in which the requesting school district is located.

**"County treasurer"** means the county treasurer of the requesting school district.

**"Fiscally solvent,"** when used for the purposes of any certification required by the act and these rules with respect to the financial condition of a school district seeking to participate in the guarantee program, means that, in the opinion of the person making such certification after giving due consideration to:

- The principal and interest requirements of all outstanding voted general obligation bonds of the school district and of all outstanding bonds issued to refund voted general obligation bonds of the school district;

- The school district's past record of collecting voter-approved excess property taxes and reasonable expectations concerning future collections of voter-approved excess prop-

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erty taxes as required to meet those principal and interest requirements; and

- Such additional financial circumstances, if any, of the school district that such person considers to be material, it is reasonably expected that the school district will be able to satisfy all principal and interest requirements of bonds guaranteed and proposed to be guaranteed by the state under the guarantee program.

**"Guarantee program"** means the Washington state school district credit enhancement program established by the act.

**"Nationally recognized bond counsel firm"** means a bond counsel firm listed in the most recent publication of *The Bond Buyer's Municipal Market Place*.

**"Paying agent"** means the paying agent selected, from time to time, for a bond issue pursuant to state law.

**"School district"** or **"district"** means any school district or its successor under the laws of the state.

**"State"** means the state of Washington.

Terms not otherwise defined shall have the meanings ascribed to them in the act.

[Statutory Authority: Chapter 39.98 RCW. 00-11-023, § 210-02-010, filed 5/9/00, effective 6/9/00.]

## APPLYING TO THE PROGRAM

**WAC 210-02-020 Request for certificate of eligibility.** School districts may request a certificate of eligibility at any time during the year by filing the request. Such requests, however, must be submitted no less than thirty days prior to sale of bonds for which the guarantee, if granted, will apply. Requests, and all other written communications pursuant to the guarantee program, shall be addressed to the Debt Management Division, Office of the State Treasurer, Legislative Building, 2nd Floor, P.O. Box 40200, Olympia, Washington 98504-0200. The request shall include:

- The name, county, and district number (if applicable) of the requesting school district;

- The name of the authorized district official for the requesting school district;

- The name of the underwriter, if known, financial advisor (if any) and bond counsel assigned to the financing of the requesting school district to which the guarantee will apply;

- The mailing address, phone number, fax number, and e-mail address (if applicable) of the requesting school district;

- A statement of whether any of the school district's previously issued debt is covered by the guarantee program;

- A copy of the district's ballot proposition resolution, showing details of the special election (date, amount, ballot title) at which the bonds were or are expected to be approved by the voters;

- A copy of the resolution passed by the requesting school district's board of directors (which may be the same resolution as the district's ballot proposition resolution) authorizing the request for a certificate of eligibility;

- A certificate signed by an authorized district official:

- Stating whether the requesting school district has any bonds, the principal of or interest on which has been paid by the state under the act, and for which there remain outstanding any payment obligations of the district to the state;

- Stating that the requesting school district is, and will remain, in compliance with these administrative rules; and
- Attesting to the accuracy and completeness of the materials provided.

- A nonrefundable application processing fee of one hundred dollars; and

- Any additional materials that may be required by the office of the state treasurer in support of the request for participation in the guarantee program.

[Statutory Authority: Chapter 39.98 RCW. 00-11-023, § 210-02-020, filed 5/9/00, effective 6/9/00.]

### STATE REVIEW AND APPROVAL UNDER THE PROGRAM

**WAC 210-02-030 Review of request for certificate of eligibility.** Upon receipt of a request for a certificate of eligibility, the state treasurer shall determine whether all items listed in WAC 210-02-020 have been provided. In determining the school district's eligibility under the guarantee program, the office of the state treasurer may request additional information from the school district, as well as from any other person or entity that collects information pertaining to an evaluation that the requesting school district is fiscally solvent.

[Statutory Authority: Chapter 39.98 RCW. 00-11-023, § 210-02-030, filed 5/9/00, effective 6/9/00.]

**WAC 210-02-040 Issuance of certificate of eligibility.** Upon determining that a school district is eligible to participate in the guarantee program, the state treasurer shall issue a certificate of eligibility to the school district, no later than one business day prior to the bond sale. The certificate of eligibility shall:

- Evidence the school district's immediate qualification for the guarantee program for each bond issue contemplated for guarantee under the act;
- Be valid for one year from the date of its issuance; and
- Be applied only to the bonds approved under the special election specified by the school district in its request for a certificate of eligibility.

[Statutory Authority: Chapter 39.98 RCW. 00-11-023, § 210-02-040, filed 5/9/00, effective 6/9/00.]

**WAC 210-02-050 Denial of eligibility/determination of ineligibility.** The state treasurer may deny a school district's request for a certificate of eligibility and issue a determination of ineligibility pursuant to RCW 39.98.040, if:

- The school district fails to meet the provisions outlined in the act or any of the requirements outlined in this rule;

The state treasurer may also deny a school district's request for a certificate of eligibility and issue a determination of ineligibility pursuant to RCW 39.98.040, if the state has ever paid, pursuant to the guarantee program, any principal or interest on any of the school district's bonds and:

- The associated payment obligations of the district to the state are not satisfied; or
- The state treasurer or the state superintendent of public instruction are unable to certify, in writing, that the school district is fiscally solvent.

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[Statutory Authority: Chapter 39.98 RCW. 00-11-023, § 210-02-050, filed 5/9/00, effective 6/9/00.]

### USING THE CERTIFICATE TO ISSUE BONDS

**WAC 210-02-060 Using the certificate of eligibility to obtain the state guarantee.** The school district shall provide to the state treasurer at the time of closing:

- A copy of the bond resolution as adopted by the board of directors of the school district;
- A copy of the final official statement for the bonds to which the guarantee was applied, promptly upon its publication;

- A letter addressed to the state treasurer signed by the school district's nationally recognized bond counsel firm stating that the state treasurer may rely upon such firm's approving legal opinion with respect to the bonds as if that opinion were addressed to the state treasurer.

On the date of the bond closing, the treasurer will provide a certificate evidencing the state's guarantee for use by the school district.

[Statutory Authority: Chapter 39.98 RCW. 00-11-023, § 210-02-060, filed 5/9/00, effective 6/9/00.]

**WAC 210-02-070 Guarantee final upon issuance.** Pursuant to RCW 39.98.040, if the state treasurer at any time denies a school district a certificate of eligibility in response to a request, such denial shall not affect the validity of the state's guarantee of any outstanding bonds issued pursuant to WAC 210-02-060.

[Statutory Authority: Chapter 39.98 RCW. 00-11-023, § 210-02-070, filed 5/9/00, effective 6/9/00.]

**WAC 210-02-080 Reference to guarantee in school district bond documents.** School districts with a valid certificate of eligibility, and that have complied with WAC 210-02-060 and all other sections of this rule, shall evidence the state's guarantee of the school district's bonds by including a description of the state's guarantee in a form to be provided by the state treasurer:

- On the cover of the school district's preliminary official statement(s) and official statement(s), or other offering document(s), for the applicable bond(s); and
- On the face of the school district's applicable bond(s).
- The description of the state's guarantee supplied by the state treasurer must be used in its entirety and may not be modified or amended.

[Statutory Authority: Chapter 39.98 RCW. 00-11-023, § 210-02-080, filed 5/9/00, effective 6/9/00.]

**WAC 210-02-090 Ratings.** The office of the state treasurer will undertake to have the Washington school bond guarantee program rated by Standard & Poor's, Moody's Investors Service, and Fitch IBCA. Any school district proposing to issue bonds under the guarantee program may:

- Engage, at its own expense, one or more of the rating agencies to apply the rating of the guarantee program to its bonds; and
- At its discretion, and at its own expense, choose to obtain an underlying rating on the bonds.

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[Statutory Authority: Chapter 39.98 RCW. 00-11-023, § 210-02-090, filed 5/9/00, effective 6/9/00.]

## REPAYMENT OF SCHOOL DISTRICT DEBT ISSUED UNDER THE PROGRAM

**WAC 210-02-100 County assessor to levy taxes.** In accordance with applicable law, the county assessor for each school district with outstanding, unpaid bonds issued with the state guarantee provided under the act shall levy property taxes approved by the voters for repayment of the bonds.

[Statutory Authority: Chapter 39.98 RCW. 00-11-023, § 210-02-100, filed 5/9/00, effective 6/9/00.]

**WAC 210-02-110 County treasurer to collect taxes and transfer money to paying agent.** In accordance with applicable law, the county treasurer for each school district with outstanding, unpaid bonds issued with the state guarantee provided under the act shall collect property taxes approved by the voters for repayment of the bonds. The county treasurer shall transfer money sufficient for each scheduled debt service payment to its paying agent on or before any principal or interest payment date for the bonds.

[Statutory Authority: Chapter 39.98 RCW. 00-11-023, § 210-02-110, filed 5/9/00, effective 6/9/00.]

## STATE PAYMENT ON BONDS

**WAC 210-02-120 County treasurer notice to state treasurer of insufficient funds.** A county treasurer who is unable to transfer to the paying agent funds required to make scheduled debt service payments on guaranteed bonds of a school district on or prior to the payment date, due to the lack of adequate funds, shall immediately provide notice to the state treasurer and to the paying agent pursuant to RCW 39.98.050. Such notice shall be made to the office of the state treasurer as follows:

- By telephone: (360) 902-9050; and
- By facsimile: (360) 902-9045; and
- By first class mail: Attn: Deputy Treasurer, Debt Management Division, Office of the State Treasurer, Legislative Building, 2nd Floor, P.O. Box 40200, Olympia, Washington 98504-0200.

[Statutory Authority: Chapter 39.98 RCW. 00-11-023, § 210-02-120, filed 5/9/00, effective 6/9/00.]

**WAC 210-02-130 Paying agent notice to state treasurer of insufficient funds.** If sufficient funds are not transferred to the paying agent at the time or times required to make scheduled debt service payments on guaranteed bonds of a school district, the paying agent shall immediately notify the state treasurer as follows:

- By telephone: (360) 902-9050; and
- By facsimile: (360) 902-9045; and
- By first class mail: Attn: Deputy Treasurer, Debt Management Division, Office of the State Treasurer, Legislative Building, 2nd Floor, P.O. Box 40200, Olympia, Washington 98504-0200.

[Statutory Authority: Chapter 39.98 RCW. 00-11-023, § 210-02-130, filed 5/9/00, effective 6/9/00.]

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**WAC 210-02-140 Payment by the state treasurer for bonds issued under the act.** Pursuant to RCW 39.98.070:

- The legislature shall appropriate, in each and every biennial appropriations act, such amount as may be required to make timely payment on school district bonds guaranteed by the state under chapter 39.98 RCW;

- If sufficient money to make any scheduled debt service payment on guaranteed bonds of a school district has not been transferred to the paying agent in a timely manner, the paying agent shall make such scheduled debt service payment and the state treasurer shall transfer sufficient money to the paying agent for such payment.

[Statutory Authority: Chapter 39.98 RCW. 00-11-023, § 210-02-140, filed 5/9/00, effective 6/9/00.]

## SCHOOL DISTRICT REPAYMENT TO STATE

**WAC 210-02-150 Repayment to the state by school districts.** Each school district is responsible for paying in full the principal of and interest on its bonds guaranteed by the state under the guarantee program. The state treasurer shall recover from the district any funds paid by the state on behalf of a school district under the guarantee program in a manner consistent with chapter 39.98 RCW.

[Statutory Authority: Chapter 39.98 RCW. 00-11-023, § 210-02-150, filed 5/9/00, effective 6/9/00.]

**WAC 210-02-160 Interest on school district obligations to state.** The state treasurer will charge interest in connection with the recovery of funds under chapter 39.98 RCW. Any interest charged will be in a manner consistent with chapter 39.98 RCW. The interest charged will be what the funds used to make the guarantee payment would otherwise earn in the state treasury.

[Statutory Authority: Chapter 39.98 RCW. 00-11-023, § 210-02-160, filed 5/9/00, effective 6/9/00.]

**WAC 210-02-170 Penalty for state payment under guarantee program.** In addition to charging interest, the state treasurer may impose a penalty on a school district for which the state made a payment under the guarantee program, which penalty shall not be more than five percent of the amount paid by the state pursuant to its guarantee for each instance in which a payment by the state is made. Any penalty imposed will be consistent with chapter 39.98 RCW.

[Statutory Authority: Chapter 39.98 RCW. 00-11-023, § 210-02-170, filed 5/9/00, effective 6/9/00.]

**WAC 210-02-180 Other costs.** The district shall pay the fees, expenses and costs incurred by the state in recovering amounts paid under the guarantee.

[Statutory Authority: Chapter 39.98 RCW. 00-11-023, § 210-02-180, filed 5/9/00, effective 6/9/00.]

**WAC 210-02-190 Restructure/revision of tax collection.** If the state has made all or part of a debt service payment on behalf of a district that has issued bonds under chapter 39.98 RCW, the state treasurer may:

- Direct the district and the county treasurer to restructure and revise, to the extent permitted by law, the collection of excess levy taxes for the payment of bonds on which the

state treasurer has made payments under chapter 39.98 RCW to the extent necessary to obtain repayment to the state treasurer; and

- Require, to the extent permitted by law, that the proceeds of such taxes be applied to the district's obligations to the state if all outstanding obligations of the school district payable from such taxes are fully paid or their payment is fully provided for.

[Statutory Authority: Chapter 39.98 RCW. 00-11-023, § 210-02-190, filed 5/9/00, effective 6/9/00.]

## OTHER

**WAC 210-02-200 Exceptions.** The state treasurer may, in his or her discretion, waive any or all provisions of this rule to the extent provided by law.

[Statutory Authority: Chapter 39.98 RCW. 00-11-023, § 210-02-200, filed 5/9/00, effective 6/9/00.]

## Chapter 210-03 WAC FINANCING CONTRACTS

### WAC

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## PROGRAM AUTHORIZATION

**WAC 210-03-010 Authorization.** Chapter 39.94 RCW provides for financing of both real and personal property by state agencies and other agencies through the use of financing contracts. The state finance committee must approve all financing contracts issued on behalf of the state of Washington. Transactions may be financed with certificates of participation (COPs). Certificates of participation represent ownership interests, or participation, in the future stream of lease payments. Certificates of participation are issued on behalf of the state pursuant to a lease of financed assets that provide collateral to the lender. The state finance committee has delegated administrative responsibility for the lease/purchase program to the office of the state treasurer. The office of the state treasurer may pool financing requests in the name of the state of Washington to access municipal securities markets with lower, tax-exempt interest rates.

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The office of the state treasurer classifies financing transactions as operating leases (true leases) or financing contracts based upon the criteria established by the Governmental Accounting Standards Board (based upon FASB 13). If any one of the following criteria is met, the lease is considered a financing contract subject to chapter 39.94 RCW:

- (1) Present value of lease payments > 90% of fair market value.
- (2) Lease term > 75% of useful life.
- (3) Lease includes a bargain purchase option.
- (4) Lease provides for transfer of ownership.

If a lease satisfies any one of the above criteria, it is a financing contract subject to chapter 39.94 RCW.

[Statutory Authority: RCW 39.94.040. 01-11-062, § 210-03-010, filed 5/11/01, effective 6/11/01.]

## GENERAL

**WAC 210-03-020 Definitions.** For purposes of this rule, the following definitions shall apply:

- (1) "LOCAL" means local option capital asset lending program.
- (2) "Program" means the administration of financing contracts and is referred to herein as the lease/purchase program, including state agency financing, and the LOCAL program.
- (3) "COP" means certificates of participation.

[Statutory Authority: RCW 39.94.040. 01-11-062, § 210-03-020, filed 5/11/01, effective 6/11/01.]

## APPLYING TO THE PROGRAM

**WAC 210-03-030 Filing notice of intent.** A state agency or other agency may apply to the financing program by submitting a notice of intent on the approved form. State finance committee approved forms are available from the office of the state treasurer.

The signed notice of intent should be mailed to:

Office of the State Treasurer  
Debt Management  
P.O. Box 40200  
Olympia WA 98504-0200

(1) For state agency participation, additional forms may be required, including, but not limited to, the following:

(a) Equipment financing forms provided by the office of the state treasurer:

(i) Notice of intent - Notifies the office of the state treasurer of dollar amounts, dates and contact person(s) for upcoming financings.

(ii) Certificate of authorized signers - This document is to be prepared on agency letterhead. An original certificate may be filed with the state treasurer so that photocopies may be submitted with future equipment financing transactions.

(iii) State agency financing addendum - Establishes the contractual obligations of the state agency in the transaction and confirms the intent of the agency to acquire equipment through installment purchase agreements and remit installment payments to the office of the state treasurer.

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(iv) Personal property certificate - Describes the equipment, the vendor(s), and the amount to be financed and directions for disbursement.

(v) Certificate of insurance - This document is prepared by the office of risk management and sent directly to the state treasurer.

(b) Real estate financing forms provided by the office of the state treasurer:

(i) Notice of intent - Notifies the office of the state treasurer of dollar amounts, dates and contact person(s) for upcoming financings.

(ii) Real estate worksheet - To be completed by the state agency - This document provides information about the real property to be financed.

(iii) Certificate of authorized signers - This document is to be prepared on agency letterhead when someone other than the agency director will be signing on behalf of the state agency.

(iv) Financing contract real property - Agreement between the state agency and the nominal lessor that provides for the use of the land and facility in exchange for lease payments to be made by the agency. The office of the state treasurer appoints a nominal lessor.

(v) Site lease - State agency - Agreement between the state agency and the nominal lessor that provides for the lease of the land for a period that usually extends five years beyond the term of the financing lease. The site lease provides security for the financing lease.

(vi) Tax certificate - Information about compliance with IRS regulations to ensure the tax-exempt status of the financing. By signing the tax certificate, the agency acknowledges it has read, understands and will comply with the IRS regulations.

(2) For other agency participation, additional forms may be required, including, but not limited to, the following:

(a) Equipment financing forms provided by the office of the state treasurer:

(i) Notice of intent - Notifies the office of the state treasurer of dollar amounts, dates and contact person(s) for upcoming financings.

(ii) Credit form - Information to judge the agency's legal ability to incur the debt (assessment of debt capacity) and its ability to repay the debt (assessment of debt affordability).

(iii) Form of reimbursement resolution - Required if agency is planning to seek reimbursement through the LOCAL program.

(iv) Authorizing resolution or, for cities, authorizing ordinance - Authorizes the financing of the property through the LOCAL program and designates the number of individuals required to execute the financing with the office of the state treasurer.

(v) Certificate of authorizing resolution or ordinance - To certify a true copy of a resolution.

(vi) Certificate of authorized agency representatives - Designates the agency representatives authorized to execute the financing and states the number of signatures required.

(vii) Financing contract personal property - Local agency - Establishes the contractual obligations of the local agency in the transaction and confirms the intent of the agency to acquire equipment through installment purchase

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agreements and remit installment payments to the office of the state treasurer.

(viii) Personal property certificate - Describes the equipment, the vendor(s), and the amount to be financed and directions for disbursement.

(ix) Opinion of local agency counsel - Legal opinion on behalf of the local agency verifying its authority to enter into the contract. It is not the intent of this requirement to solicit a local counsel opinion on the financing documents.

(x) Tax certificate - Information about compliance with IRS regulations to ensure the tax-exempt status of the financing. By signing the tax certificate, the agency acknowledges it has read, understands and will comply with the IRS regulations.

(xi) Certificate of compliance with agency debt limits.

(b) Real estate financing forms provided by the office of the state treasurer:

(i) Notice of intent - Notifies the office of the state treasurer of upcoming financing dollar amounts, dates and contact person(s).

(ii) Real estate worksheet - Provides information about the real property to be financed.

(iii) Credit form - Provides the information needed to analyze the agency's legal ability to incur the debt (assessment of debt capacity) and its ability to repay the debt (assessment of debt affordability).

(iv) Form of reimbursement resolution - Required if agency is planning to seek reimbursement through the LOCAL program.

(v) Authorizing resolution or authorizing ordinance - Authorizes the financing of the property through the LOCAL program and designates the number of individual(s) required to execute the financing with the office of the state treasurer.

(vi) Certificate of authorizing resolution or ordinance - To certify a true copy of a resolution.

(vii) Certificate of authorized agency representatives - Designates the agency representatives authorized to execute the financing and states the number of signatures required.

(viii) Financing contract real property - Local agency - Agreement between the local agency and the nominal lessor that provides for the use of the land and facility in exchange for lease payments to be made by the agency. The office of the state treasurer appoints a nominal lessor.

(ix) Site lease - Local agency - Agreement between the local agency and the nominal lessor that provides for the lease of the land for a period that usually extends five years beyond the term of the financing lease. The site lease provides security for the financing lease.

(x) Opinion of local agency counsel - Legal opinion on behalf of the local agency verifying its authority to enter into the contract and that the agency has legally adopted the resolution(s). It is not the intent of this requirement to solicit a local counsel opinion on the financing documents.

(xi) Tax certificate - Information about compliance with IRS regulations to ensure the tax-exempt status of the financing. By signing the tax certificate, the agency acknowledges it has read, understands and will comply with the IRS regulations.

(xii) Certificate of compliance with agency debt limits

(c) Information to be provided by the local agency:

(i) Evidence of insurance - A local agency should contact its insurance agent to obtain a certificate of insurance on the property to be financed. At a minimum, hazard insurance for the amount of the financing (or guaranteed replacement) and a one million dollar liability policy are required. The local agency may be asked to list the fiscal agent and/or nominal lessor as additional insureds.

(ii) Title insurance - The agency should provide a copy of its title insurance policy for real property transactions. A new title policy may be ordered for the financing.

(iii) Evidence of incumbency of governing body and elected officials - School districts obtain a certificate from their ESD identifying the district, names and terms of office of board members and superintendent; other districts obtain a certificate from county auditor, identifying the governing body, with names and terms of office; all districts should include copy of minutes showing election of current officers, and, in the case of cities, a certificate of the mayor, identifying the city clerk.

(2) The local government is responsible for completing all required documentation and providing it to the office of the state treasurer with original signatures by the cutoff date to be included in the next financing.

[Statutory Authority: RCW 39.94.040. 01-11-062, § 210-03-030, filed 5/11/01, effective 6/11/01.]

## REVIEW OF APPLICATION TO THE PROGRAM

**WAC 210-03-040 Review of notice of intent.** The office of the state treasurer staff will review the notice of intent for completeness, essentiality of equipment/real estate project, length of finance term, amount of financing, useful life of equipment and compliance with other financing requirements and tax laws.

[Statutory Authority: RCW 39.94.040. 01-11-062, § 210-03-040, filed 5/11/01, effective 6/11/01.]

## APPROVAL FOR PARTICIPATION IN THE PROGRAM

**WAC 210-03-050 State agency participation.** The state finance committee must approve all financing contracts. Agencies should submit a notice of intent to lease/purchase on the approved form at the time of the financing decision. The notice of intent to lease/purchase must be used to apply for financing of both equipment and/or real estate.

(1) All real estate projects must be specifically approved by the legislature. Authorization must exist in the current biennium in order to be eligible for financing.

(2) Equipment financing information shall be provided on approved forms designated by the office of the state treasurer and approved by the state finance committee.

(3) Financing requests must meet the minimum amount and the terms established by the state financing committee. The office of the state treasurer may alter the finance term requested by an agency and/or the structure of a transaction in order to improve the marketability of securities issues or when it otherwise believes it will be advantageous to do so for either the agency, the state, or the program.

[Statutory Authority: RCW 39.94.040. 01-11-062, § 210-03-050, filed 5/11/01, effective 6/11/01.]

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**WAC 210-03-060 Other agency participation.** The LOCAL program is available for personal and real property. All applicants must receive approval from the office of the state treasurer to finance through the LOCAL program. Applicants approved for participation will receive notification by the office of the state treasurer.

(1) The required forms shall be designated by the office of the state treasurer and approved by the state finance committee.

(2) Documents must be completed by the agency and signed by an authorized representative of the agency. Each financing document must have an original signature and be returned to the office of the state treasurer.

(3) After written approval for financing is received, a LOCAL participant may acquire and pay for the property. Approval for financing may be contingent on certain criteria being satisfied.

[Statutory Authority: RCW 39.94.040. 01-11-062, § 210-03-060, filed 5/11/01, effective 6/11/01.]

## TIMING OF ISSUANCE

### WAC 210-03-070 Financing participation deadlines.

(1) The office of the state treasurer may pool state agency equipment and LOCAL participants' requests for financing of equipment and real estate into regularly scheduled offerings of certificates of participation. Only applications that have completed information on the required forms will be included in the financing.

(2) Real estate projects for state agencies are financed on an individual basis provided there is a minimum of ninety days for document preparation.

[Statutory Authority: RCW 39.94.040. 01-11-062, § 210-03-070, filed 5/11/01, effective 6/11/01.]

## FINANCING CONTRACT PAYMENTS

**WAC 210-03-080 Scheduled payments.** The state finance committee may designate a fiscal agent as trustee as provided in RCW 39.94.040. Payments may be directed to the fiscal agent as trustee on behalf of the state. Pursuant to RCW 39.94.030, all payments shall be made according to the terms and scheduled payments dates listed in the financing contract.

[Statutory Authority: RCW 39.94.040. 01-11-062, § 210-03-080, filed 5/11/01, effective 6/11/01.]

## Chapter 210-06 WAC PUBLIC RECORDS

### WAC

210-06-010	Purpose.
210-06-020	Definitions.
210-06-030	Description of central and field organization of the state finance committee.
210-06-040	Operations and procedures.
210-06-050	Public records available.
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210-06-120	Records index.
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210-06-140  
210-06-990

Adoption of form.  
Appendix A—Form—Request for public records.

**WAC 210-06-010 Purpose.** The purpose of this chapter shall be to ensure compliance by the state finance committee with the provisions of chapter 1, Laws of 1973 (Initiative 276), Disclosure—Campaign finances—Lobbying—Records; and in particular with §§ 25-32 of that act, dealing with public records.

[Order XII, § 210-06-010, filed 11/28/73.]

**WAC 210-06-020 Definitions.** (1) **Public records.** "Public record" includes any writing containing information relating to the conduct of governmental or proprietary function prepared, owned, used or retained by any state or local agency regardless of physical form or characteristics.

(2) **Writing.** "Writing means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds; or symbols, or combination thereof, and all paper, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents."

(3) **State finance committee.** The state finance committee is the committee established by chapter 43.33 RCW. The state finance committee shall hereinafter be referred to as the "committee." Where appropriate, the term state finance committee also refers to the staff and employees of the committee.

[Order XII, § 210-06-020, filed 11/28/73.]

**WAC 210-06-030 Description of central and field organization of the state finance committee.** (1) **State finance committee.** The state finance committee is a state agency empowered to perform all duties prescribed by law with respect to the investment of trust and public funds. The administrative offices of the state finance committee and its staff are located at 314 Insurance Building, Olympia, Washington.

[Order XII, § 210-06-030, filed 11/28/73.]

**WAC 210-06-040 Operations and procedures.** The state finance committee is charged with the duty to invest certain trust and public funds, as set forth in RCW 43.33.020, 43.33.025, 43.33.030, 51.44.100, and sections 12, 14, 15 and 16, chapter 103, Laws of 1973 1st ex. sess.

[Order XII, § 210-06-040, filed 11/28/73.]

**WAC 210-06-050 Public records available.** All public records of the state finance committee as defined in WAC 210-06-020 are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by section 31, chapter 1, Laws of 1973, and WAC 210-06-020.

[Order XII, § 210-06-050, filed 11/28/73.]

**WAC 210-06-060 Public records officer.** The state finance committee's public records shall be in the charge of the public records officer designated by the agency. The person so designated shall be located in the administrative office

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of the agency. The public records officer shall be responsible for the following: The implementation of the state finance committee's rules and regulations regarding release of public records, coordinating the staff of the committee in this regard, and generally insuring compliance by the staff with the public records disclosures requirements of chapter 1, Laws of 1973.

[Order XII, § 210-06-060, filed 11/28/73.]

**WAC 210-06-070 Office hours.** Public records shall be available for inspection and copying during the customary office hours of the state finance committee. For the purposes of this chapter, the customary office hours shall be from 9:00 a.m. to noon and from 1:00 p.m. to 4:00 p.m., Monday through Friday excluding legal holidays.

[Order XII, § 210-06-070, filed 11/28/73.]

**WAC 210-06-080 Requests for public records.** In accordance with requirements of chapter 1, Laws of 1973, that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copied or copies of such records may be obtained, by members of the public, upon compliance with the following procedures:

(1) A request shall be made in writing upon a form prescribed by the state finance committee which shall be available at its administrative office. The form shall be presented to the public records officer; or to any member of the committee's staff, if the public records officer is not available at the administrative office of the committee during customary office hours. The request shall include the following information:

- (a) The name of the person requesting the record;
- (b) The time of day and calendar date on which the request was made;
- (c) The nature of the request;
- (d) If the matter requested is referenced within the current index maintained by the records officer, a reference to the requested record as it is described in such current index;
- (e) If the requested matter is not identifiable by reference to the committee's current index, an appropriate description of the record requested.

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer or staff member to whom the request is made to assist the member of the public in appropriately identifying the public record requested.

[Order XII, § 210-06-080, filed 11/28/73.]

**WAC 210-06-090 Copying.** No fee shall be charged for the inspection of public records. The committee shall charge a fee not to exceed 25 cents per page. This charge is the amount necessary to reimburse the committee for its actual costs incident to such copying.

[Order XII, § 210-06-090, filed 11/28/73.]

**WAC 210-06-100 Exemptions.** (1) The committee reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 210-06-

080 is exempt under the provisions of § 31, chapter 1, Laws of 1973.

(2) In addition, pursuant to § 26, chapter 1, Laws of 1973, the committee reserves the right to delete identifying details when it makes available or publishes any public record, in any cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 1, Laws of 1973. The public records officer will fully justify such deletion in writing.

(3) All denials of requests for public records must be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.

[Order XII, § 210-06-100, filed 11/28/73.]

**WAC 210-06-110 Review of denials of public records requests.** (1) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement by the public records officer or other staff member which constituted or accompanied the denial.

(2) Immediately after receiving a written request for review of a decision denying a public record, the public records officer or other staff member denying the request shall refer it to the executive secretary of the committee. The executive secretary shall immediately consider the matter and either affirm or reverse such denial or call a special meeting of the state finance committee as soon as legally possible to review the denial. In any case, the request shall be returned with a final decision, within two business days following the original denial.

(3) Administrative remedies shall not be considered exhausted until the system has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first.

[Order XII, § 210-06-110, filed 11/28/73.]

**WAC 210-06-120 Records index.** (1) **Index.** The committee has available to all persons a current index which provides identifying information as to the following records issued, adopted or promulgated since June 30, 1972:

"(a) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

"(b) Those statements of policy and interpretations of policy, statute and the constitution which have been adopted by the agency;

"(c) Administrative staff manuals and instructions to staff that affect a member of the public;

"(d) Planning policies and goals, and interim and final planning decisions;

"(e) Factual staff reports and studies, factual consultant's reports and studies, scientific reports and studies, and any other factual information derived from tests, studies, reports or surveys, whether conducted by public employees or others; and

"(f) Correspondence, and materials referred to therein, by and with the agency relating to any regulatory, supervisory or enforcement responsibilities of the agency, whereby

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the agency determines, or opines upon, or is asked to determine or opine upon, the rights of the state, the public, a subdivision of state government, or of any private party."

(2) **Availability.** The current index promulgated by the committee shall be available to all persons under the same rules and on the same conditions as are applied to public records available for inspection.

[Order XII, § 210-06-120, filed 11/28/73.]

#### **WAC 210-06-130 State finance committee address.**

All communications with the committee including but not limited to the submission of materials pertaining to its operations and/or the administration or enforcement of chapter 1, Laws of 1973 and these rules; requests for copies of the committee's decisions and other matters, shall be addressed as follows: State Finance Committee, c/o Public Records Officer, 314 Insurance Building, Olympia, Washington 98504.

[Order XII, § 210-06-130, filed 11/28/73.]

**WAC 210-06-140 Adoption of form.** The committee hereby adopts for use by all persons requesting inspection and/or copying or copies of its records, the form attached hereto as Appendix A, entitled "Request for public record."

[Order XII, § 210-06-140, filed 11/28/73.]

#### **WAC 210-06-990 Appendix A—Form—Request for public records.**

##### APPENDIX A

##### REQUEST FOR PUBLIC RECORDS

Name of Requestor:

Address:

Phone:

Date of Request:

Time of Request:

Nature of Request:

1. Index Reference .....
2. If not identifiable by reference to the index, then describe the document(s) in detail .....
- .....
- .....
- .....
- Signature .....

##### For Office Use Only:

- |                                  |                                   |                                  |
|----------------------------------|-----------------------------------|----------------------------------|
|                                  |                                   | Record                           |
| (1) Request                      | Record                            | Withheld                         |
| Granted <input type="checkbox"/> | Withheld <input type="checkbox"/> | In Part <input type="checkbox"/> |
- (2) If withheld, name the exemption contained in § 31, chapter 1, Laws of 1973, which authorizes the withholding of the record or part of record: Subsection (1) ( ).
  - (3) If withheld, briefly explain how the exemption applies to the record withheld.
  - (4) If request granted, time . . . . ., day . . . . .

[Order XII, Form (codified as WAC 210-06-990), filed 11/28/73.]